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OBLON, SPIVAK, MCCLELLAND MAIER & NEUSTADT, P.C. 1940 DUKE STREET ALEXANDRIA, VA 22314				
EXAMINER				
DELCOTTO, GREGORY R				
ART UNIT		PAPER NUMBER		
1796				
NOTIFICATION DATE		DELIVERY MODE		
04/10/2008		ELECTRONIC		

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

patentdocket@oblon.com

oblonpat@oblon.com

jgardner@oblon.com

Office Action Summary

Application No.

10/539,472

Applicant(s)

RABE ET AL

Examiner

Gregory R. Del Cotto

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 08 January 2008 and 17 November 2007.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 12-25 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 12-25 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☒ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/S508)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date _____
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____

DETAILED ACTION

1. Claims 12-25 are pending. Applicant's amendments and arguments filed 1/8/08 and 11/12/07 have been entered.

Objections/Rejections Withdrawn

The following objections/rejections as set forth in the Office action mailed 7/10/07 have been withdrawn:

The objection to claim 19 because of minor informalities has been withdrawn.

Priority

Receipt is acknowledged of papers submitted under 35 U.S.C. 119(a)-(d), which papers have been placed of record in the file.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(a) the invention was known or used by others in this country, or patented or described in a printed publication in this or a foreign country, before the invention thereof by the applicant for a patent.

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

(e) the invention was described in a patent granted on an application for patent by another filed in the United States before the invention thereof by the applicant for patent, or on an international application by another who has fulfilled the requirements of paragraphs (1), (2), and (4) of section 371(c) of this title before the invention thereof by the applicant for patent.

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The changes made to 35 U.S.C. 102(e) by the American Inventors Protection Act of 1999 (AIPA) and the Intellectual Property and High Technology Technical Amendments Act of 2002 do not apply when the reference is a U.S. patent resulting directly or indirectly from an international application filed before November 29, 2000. Therefore, the prior art date of the reference is determined under 35 U.S.C. 102(e) prior to the amendment by the AIPA (pre-AIPA 35 U.S.C. 102(e)).

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was

not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

Claims 12-22 are rejected under 35 U.S.C. 102(b) as anticipated by or, in the alternative, under 35 U.S.C. 103(a) as obvious over Jakob et al (US 2002/0127168).

Jakob et al teach coated sodium percarbonate with improved internal stability and storage stability. See Abstract. Suitable coating agents include sodium carbonate, alkali metal silicates, magnesium sulfate, etc. See para. 28. Jakob et al teach thermal treatment which is preferably carried out in a fluidized bed immediately following the drying state. According to a preferred embodiment, the thermal treatment of the sodium percarbonate is carried out at a temperature in the range from 80 to 95 degrees Celsius at a treatment time from 5 to 60 minutes. See paras. 42-46. Note that, with respect to the available oxygen and fizzing properties of the coated percarbonate particles as recited by the instant claims, the Examiner asserts that the coated percarbonate particles specifically taught by Jakob et al would inherently have the same available oxygen and fizzing properties as recited by the instant claims because Jakob et al teach coated percarbonate particles which are the same as recited by the instant claims. Jakob et al disclose the claimed invention with sufficient specificity to constitute anticipation.

Accordingly, the teachings of Jakob et al anticipate the material limitations of the instant claims.

Alternatively, even if the broad teachings of Jakob et al are not sufficient to anticipate the material limitations of the instant claims, it would have been nonetheless obvious to one of ordinary skill in the art to arrive at the claimed available oxygen and fizzing properties of the composition in order to provide the optimum cleaning properties to the composition because Jakob et al teach that the amounts and types of required components added to the composition may be varied.

Claims 12-19, 21, and 22 are rejected under 35 U.S.C. 102(b) as anticipated by or, in the alternative, under 35 U.S.C. 103(a) as obvious over EP 459,625.

'625 teaches a process for producing a stabilized sodium percarbonate comprising separately spraying an aqueous boric acid solution and an aqueous alkali metal silicate solution onto sodium percarbonate particles to coat the sodium percarbonate particles with boric acid and alkali metal silicate. See Abstract. The temperature of the sodium percarbonate during the spraying/drying is 30 to 100 degrees Celsius. See page 3, lines 45-50. Specifically, '625 teaches that particles of sodium percarbonate were kept in a fluidized state by passing a hot air at 100 degrees Celsius there through from under the plate. See page 5, lines 1-20. Note that, with respect to the available oxygen and fizzing properties of the coated percarbonate particles as recited by the instant claims, the Examiner asserts that the coated percarbonate particles specifically taught by '625 would inherently have the same available oxygen and fizzing properties as recited by the instant claims because '625 teaches coated percarbonate particles which are the same as recited by the instant claims. '625 discloses the claimed invention with sufficient specificity to constitute anticipation.

Accordingly, the teachings of '625 anticipate the material limitations of the instant claims.

Alternatively, even if the broad teachings of '625 are not sufficient to anticipate the material limitations of the instant claims, it would have been nonetheless obvious to one of ordinary skill in the art to arrive at the claimed available oxygen and fizzing properties of the composition in order to provide the optimum cleaning properties to the composition because '625 teach that the amounts and types of required components added to the composition may be varied.

Claims 12-19, and 21-23 are rejected under 35 U.S.C. 102(b) as anticipated by or, in the alternative, under 35 U.S.C. 103(a) as obvious over EP 623,553.

'553 teaches a stabilized sodium percarbonate particle which includes a sodium percarbonate particle having at least one coating layer thereon, wherein the at least one coating layer includes a silicate; magnesium sulfate, and an alkali metal salt selected from the group consisting of alkali metal carbonates, alkali metal bicarbonates, and alkali metal sulfate. The present sodium percarbonate particle is good in solubility and is excellent in its formulation stability with detergent. See Abstract. The temperature of the sodium percarbonate at the time of spray-drying is preferably from 40 to 95 degrees Celsius. Specifically, '553 teaches that percarbonate was placed on a multipore plate of a fluid dry coater. See Example 1. Further, '553 teaches that the percarbonate may be used in combination with a zeolite. See page 5, lines 10-20. '553 discloses the claimed invention with sufficient specificity to constitute anticipation.

Accordingly, the teachings of '553 anticipates the material limitations of the instant claims.

Alternatively, even if the broad teachings of '553 are not sufficient to anticipate the material limitations of the instant claims, it would have been nonetheless obvious to one of ordinary skill in the art to arrive at the claimed available oxygen and fizzing properties of the composition in order to provide the optimum cleaning properties to the composition because '553 teach that the amounts and types of required components added to the composition may be varied.

Claim 20 is rejected under 35 U.S.C. 103(a) as being unpatentable over EP 459,625 or EP 623,553 as applied to claims 12-19, 21, and 22 above, and further in view of Jakob et al (US 2002/0127168).

'625 or '553 are relied upon as set forth above. However, neither reference teaches the use of a fluidized bed apparatus as recited by instant claim 20.

Jakob et al are relied upon as set forth above.

It would have been obvious to one of ordinary skill in the art, at the time the invention was made, to incorporate a fluidized bed reactor in the process as taught by '625 or '553, with a reasonable expectation of success, because Jakob et al teach that spraying and drying including thermal conditioning of a similar coated percarbonate particle may take place in a fluid bed reactor and further, '625 or '553 teach that various reactors may be used for spraying and drying with hot air which would encompass fluid bed reactors.

Claims 23-25 are rejected under 35 U.S.C. 103(a) as being unpatentable over Jakob et al (US 2002/0127168) or EP 459,625 as applied to the rejected claims above, and further in view of EP 567,140.

Jakob et al or '625 are relied upon as set forth above. However, neither reference teaches the use of zeolites and surfactants in combination with the percarbonate as recited by the instant claims.

'140 teaches a stable sodium percarbonate which can be used in a detergent composition. See Abstract. Surfactants and zeolites may be used in the compositions. See pages 7 and 8.

It would have been obvious to one of ordinary skill in the art, at the time the invention was made, to use the sodium percarbonate as taught by Jakob et al or '625 in a detergent composition containing zeolites or surfactants, with a reasonable expectation of success, because '140 teaches a similar composition containing percarbonate along with zeolites and surfactants and further, Jakob et al or '625 teaches the use of sodium percarbonates in detergent compositions in general.

Claims 24 and 25 are rejected under 35 U.S.C. 103(a) as being unpatentable over EP 623,553 as applied to the rejected claims above, and further in view of EP 567,140.

'553 is relied upon as set forth above. However, '553 does not teach the use of surfactants in combination with the percarbonate as recited by the instant claims.

'140 is relied upon as set forth above.

It would have been obvious to one of ordinary skill in the art, at the time the invention was made, to use the sodium percarbonate as taught by '553 in a detergent composition containing surfactants, with a reasonable expectation of success, because '140 teaches a similar composition containing percarbonate along with surfactants and further, '553 teaches the use of sodium percarbonates in detergent compositions in general.

Response to Arguments

With respect to the rejection of the instant claims under 35 USC 102/103 using Jakob, Applicant states that Jakob relates to a process for improving the internal stability and storage stability of sodium percarbonate particles while the present invention, on the other hand, provides coated sodium percarbonate particles having fizzy properties and an improved rate of dissolution without impairing their stability. Further, Applicant states that Jakob is silent regarding any fizzy properties and conditions of thermal treatment according to the present invention that provide the claimed effervescent properties are different from both the preferred range of Jakob. Also, Applicant concludes that Jakob does not teach or suggest the special properties of available oxygen content and effervescent properties as claimed and that a Declaration has been filed under 37 CFR 1.132 which supports this assertion. In response, note that, the Examiner asserts that while Jakob et al are silent concerning any "fizzy properties" of sodium percarbonate particles, the particles of Jakob et al would inherently have the same "fizzy" properties as recited by the instant claims because Jakob et al teach coated percarbonate particles which are the same as recited by the

instant claims. While Applicant states that the temperature and time of heat treatment disclosed by Jakob et al would not allow for formation of a sodium percarbonate having the same "fizzy" properties as recited by the instant claims, it appears as though Jakob et al teach heat treatment conditions which are the same as recited by instant claims 18 and 19 which would lead to sodium percarbonate particles having the same properties as recited by the instant claims.

Further, the Examiner asserts that the Declaration filed under 37 CFR 1.132 is not sufficient to place the instant claims in condition for allowance. First, note that, nowhere in the Declaration does it actually state that the test results presented are actually results based on the disclosure of Jakob et al. Thus, it is unclear as to whether these results are attributable to the percarbonates of Jakob et al or other percarbonates not disclosed by Jakob et al and the evidence presented is not persuasive. Alternatively, even if the data presented in the Declaration is based on Jakob et al, which the Examiner is clearly not conceding, the data would not be persuasive. Note that, Jakob et al specifically teach heat treatment which is carried out from 5 to 60 minutes and more preferably 10 to 60 minutes and the Declaration provides no evidence with respect to a heat treatment carried out at 60 minutes as taught by Jakob et al. For example, the percarbonate particles as taught by Jakob et al would be expected to have the same fizziness properties as Example 3 of Table 1 on page 7 of the instant specification in which a percarbonate which was heated treated for 60 minutes at 110 degrees Celsius had 2 ml of fizziness. Thus, the Examiner asserts that the Declaration is not sufficient to place the instant claims in condition for allowance.

With respect to the rejection of the instant claims under 35 USC 102/103 using EP '625 and EP '553, Applicant states that the conditions necessary to produce the fizzy coated sodium percarbonate particles according to the present invention are neither disclosed nor suggested by '625 or '553. In response, note that, Applicant has provided no data showing that the particles taught by '625 or '553 do not have the same "fizziness" properties as recited by the instant claims. The Examiner maintains that the coated percarbonate particles specifically taught by '625 or '553 would inherently have the same available oxygen and fizzing properties as recited by the instant claims because '625 or '553 teach coated percarbonate particles which are the same as recited by the instant claims.

Conclusion

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of

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the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Gregory R. Del Cotto whose telephone number is (571) 272-1312. The examiner can normally be reached on Mon. thru Fri. from 8:30 AM to 6:00 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Harold Pyon can be reached on (571) 272-1498. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Gregory R. Del Cotto/
Primary Examiner, Art Unit 1796

/G. R. D./
March 31, 2008